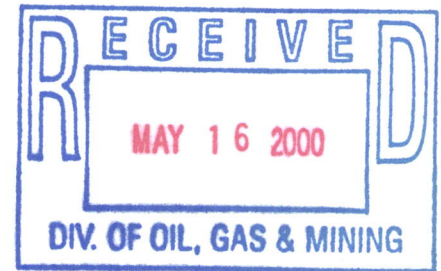


5/053/057

FINDING OF NO SIGNIFICANT IMPACT  
AND  
DECISION RECORD

Hodges' Little Creek Mountain Stone Site  
UT-045-00-EA-06  
UTU-78488



Based on the analysis of potential environmental impacts contained in the attached environmental assessment, I have determined that the action will not have a significant effect on the human environment and an environmental impact statement is not required.

It is my decision to authorize the Hodges' Little Creek Mountain Stone Site as described in the proposed action of EA-UT-045-00-EA-06

This decision is contingent on meeting all stipulations and monitoring requirements listed below.

The modifications added to the Plan of Operations submitted by Mr. Hodges are incorporated into the Proposed Action.

To prevent the introduction of noxious weeds or other invasive, non-native plants into the proposed project area, all equipment and vehicles used will be washed prior to first entering the site. All noxious weed infestations noted by the operator will be reported to the St. George Field Office weed coordinator. No equipment or vehicles will enter an infested area unless precautions to prevent the spread are authorized by the St. George Field Office. After the project is completed, the disturbed sites will be monitored by the BLM for noxious weeds. All noxious weed infestations noted will be reported to the St. George Field Office weed coordinator; however, proper treatment will be operator's responsibility. All chemical treatments must be done by a certified applicator using BLM approved herbicides.

The rationale for selecting the Proposed Action is it is the only alternative in compliance with the regulations found in 43 CFR 3809. The proposed action is in conformance with the St. George Field Office Resource Management Plan (March 15, 1999)

No comments were received from the public concerning this proposals.

Appeals

Appeals to this decision may be filed according to 43 Code of Federal Regulations 3809.4.

Any operator adversely affected by the decision of the authorized officer made pursuant to the provisions of 43 CFR 3809 shall have the right of appeal to the State Director, and thereafter to



the Board of Land Appeals, Office of Hearings and Appeals, if the State Director's decision is adverse to the appellant.

To be considered, an appeal must be filed in writing in the office of the authorized officer who made the decision from which an appeal is being taken, within 30 days after the date of receipt of the decision. A decision of the authorized officer from which an appeal is taken shall be effective during the pendency of an appeal. A request for a stay may accompany the appeal.

The appeal to the State Director shall contain the name and address of the appellant, the name of the mining claims and serial numbers (when applicable) which are subject to the appeal, and a statement of the reasons for the appeal and any arguments the appellant wishes to present which would justify reversal or modification of the decision.

Any party, other than the operator, aggrieved by a decision of the authorized officer shall utilize the appeals procedure in 43 CFR 4. Within 30 days of receipt of this decision, you have the right to appeal to the Board of Land Appeals, Office of the Secretary, in accordance with the regulations at 43 CFR 4.400. If an appeal is taken, you must follow the procedures outlined in Form 1842-1, Information on Taking Appeals to the Board of Land Appeals. The appellant has the burden of showing that the decision appealed from is in error. The filing of such an appeal shall not stop the authorized officer's decision from being effective.

The operator, Mr. Eugene Hodges of P.O. Box 997, LaVerkin, UT 84745 is an adverse party and must be notified of any appeal filed.

Neither the decision of the authorized officer nor the state Director shall be construed as final agency action for the purpose of judicial review of that decision.

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Field Office Manager

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Date

## **INTRODUCTION/PURPOSE AND NEED**

### **Introduction**

Little Creek Mountain was designated as an Area of Critical Environmental Concern (ACEC) in the March 1999 St. George Field Office Resource Management Plan to protect archeological sites. Mr. Eugene Hodges located mining claims on Little Creek Mountain in September of 1999, within the Little Creek Mountain ACEC. Mr. Hodges filed a Plan of Operations in accordance with 43 CFR 3809 on February 23, 2000 to remove rock from these claims.

### **Purpose and Need**

The purpose of the proposed action is to allow Mr. Hodges to develop the mining claims he has located. There is an increasing demand for the banded sandstone present on the claims, and Mr. Hodges wishes to provide material for this market. The end use of the banded sandstone is for artistic and/or home decor items, such as colorful coasters, book-ends, paperweights, clocks, and/or other decorative items.

### **Issues**

Issues identified during scoping include the location of the proposed action within the Little Creek Mountain ACEC established to protect the many Anasazi structural sites which have been found on the mesa. The issue of the legality of locating mining claims for decorative stone was also raised. Grazing, vegetation and noxious weeds, floodplain, water quality, and recreation were all raised as potentially impacted resources.

### **Conformance with Land Use Plan:**

The Proposed Action and alternative(s) described below are subject to the St. George Field Office Resource Management Plan approved on March 15, 1999. They are in conformance with:

Decision MI-07, which states "public lands in Washington County will remain available to mining locations under the General Mining Act of 1872 and applicable regulations on 615,151 acres...."

Decision MI-10, which states "Plans of Operation are also required for all mining activities, regardless of size other than casual use, within ACECs,...."

Decision MI-11, which states "Where applicable, surface disturbing activities will be subject to the reclamation standards listed in Appendix 1."

Decision CL-03, which states "Prescriptions for all or portions of four Areas of Critical Environmental Concern will be applied to protect, conserve, or interpret important cultural or paleontological resources." Little Creek Mountain ACEC is one of the four

## **PROPOSED ACTION AND ALTERNATIVES**

### **Authorize the Plan of Operations Alternative**

Mr. Hodges proposes to use existing roads and the Little Creek wash bottom to access two sites on his claims. Approximately 4,000 feet of the access would be off of the maintained road, on either un-maintained roads (developed for the recent fire or other resource uses) or the wash bottom. The proposed sites have outcrops of the banded sandstone found in the Shinarump Member of the Chinle Formation. He would use heavy equipment, most probably a front-end loader or backhoe, to break up the rock and load it onto trucks for transport. His plan states there would be less than 10,000 square feet (0.25 acre) of disturbance at each site. The stone would be hauled from the claims for processing at his rock shop or other sites off of Federal land..

The sites would be reclaimed as work progresses by placing soil material on the worked out areas.

A copy of the Plan of Operations submitted is in Appendix 1 of this EA.

To be in accordance with the regulations, the following modifications to the submitted Plan of Operations are required:

All operations conducted under this Plan of Operations will be conducted in a manner that would prevent unnecessary or undue degradation, and provide protection of nonmineral resources on the Federal lands.

All required Federal, State, and County permits must be obtained prior to starting operations. These permits include, but are not limited to, Utah Division of Oil, Gas, and Mining permits, Washington County Conditional Use Permit, and a 404 permit (Stream Alteration Permit) if the State Water Engineer determines one is necessary.

If any cultural and/or paleontological resource (historic or prehistoric site or object) is discovered on Federal land, it shall be immediately reported to the BLM. All operations in the immediate area of such a discovery shall be suspended until written authorization to proceed is issued by the authorized officer.

If any species listed as threatened or endangered is encountered, the operator shall immediately suspend operations and report the incident to the BLM.

The sites shall be kept clean of trash and litter, and maintained in a sanitary condition at all times. All waste materials shall be disposed of promptly at an appropriate waste disposal site. "Waste" means all discarded matter including, but not limited to, human waste, trash, garbage, refuse, oil drums, petroleum products, ashes, and equipment.

Only emergency equipment repair will be done on site. Routine maintenance,

particularly oil changes, will not be done at the site. Any oil leaks in the engine or hydraulic systems will be repaired immediately. All oil contaminated soil will be removed from the site and properly disposed of.

Improvements of existing roads and trails will be kept to a minimum. No new roads are authorized.

Commercial use of petrified wood found on the claims is not authorized. The regulations found in 43 CFR 3622 clearly state that petrified wood cannot be claimed, but must be purchased. The St. George Field Office Resource Management Plan (March 1999) states in Decision MI-18 that "No commercial use [of petrified wood] will be permitted to avoid the rapid depletion of the resource."

Reclamation will consist of:

- blending the contours of the waste rock pile(s) into the surrounding contours,
- spreading any soil material salvaged during the operation over the disturbed areas,
- pulling in any road berms and filling any side cuts developed in the roads or trails,
- seeding all disturbed areas with seed approved by the BLM,
- scarring the roads and trails used to allow for re-vegetation,
- and blocking the trails with large rocks to discourage travel.

In accordance with 43 CFR 3809.1-9, a bond equal to the estimated cost of reasonable stabilization and reclamation of the areas disturbed must be posted prior to operations at the sites. The bond required is \$ 2,520.00. The calculations determining this bond are found in Appendix 2 of this EA. This bond must meet the requirements found in 43 CFR 3809.1-9, and be in a form acceptable to the BLM.

This alternative is in accordance with the mining regulations.

### **No Action Alternative**

Under this alternative, the BLM would not authorize operations on the claim.

This Alternative is contrary to the regulations found in 43 Code of Federal Regulations 3809 which govern surface management of mining claims.

### **Alternatives Considered but Eliminated from Detailed Analysis**

Two alternatives listed in the BLM Manual Handbook H-9235-1 Mineral Material Trespass Prevention and Abatement Chapter IV, Part D (Processing of Mining Claim Plans and Notices Under 43 CFR 3809 Regulations for Suspected Common Variety Minerals) were considered, but eliminated from analysis.

The first is the **abeyance alternative** in which the BLM does not act on a Plan of

Operations until such a time as the validity of the claim is established. A decision implementing this policy was recently set aside and remanded to the BLM by IBLA (*Pass Minerals, Inc*, 151 IBLA 78, Nov. 3, 1999). The judge hearing the case stated "the mere pendency of a validity examination is not a proper basis for suspending consideration of a mining plan of operations....It is not until the completion of such an examination with appropriate reviews that BLM would know with a certainty whether a claim was supported by the discovery of a valuable mineral deposit. If BLM determined that there was no discovery and initiated a contest, the suspension of consideration of a plan of operations would be justified."

Based upon this finding, The St. George Field Office will not consider this alternative.

The second alternative is the **escrow account alternative** in which the plan of operations would be approved, and Mr. Hodges would be required to establish an escrow account at an established financial institution. He would then place an amount equal to the appraised value of the material mined into the escrow account. Currently, the appraised value for the St. George Field Office area for sandstone of this type is \$6.50 per ton of rock removed. Mr. Hodges has estimated he would remove only a few tens of tons per year.

This alternative was not considered because the small value of the stone Mr. Hodges is proposing to remove would not justify the establishment and management of an escrow account.

## **AFFECTED ENVIRONMENT**

### **Proposed Action**

#### **General Setting**

Little Creek Mountain is a mesa capped by the Shinarump Sandstone Member of the Chinle Formation. The Shinarump sandstone occurs as flat-lying "slickrock" over much of the area. The topography is generally gently rolling, dissected by ephemeral streams flowing immediately after storm events or snow-melt. The elevation of Little Creek Mountain is generally about 5400 feet above sea level. The soil is described as Bond-Rock land association (*Soil Survey of Washington County Area, Utah, 1977*). This association is well-drained, gently sloping to strongly sloping, shallow sandy loams and Rock land. The hazard of erosion is moderate.

The mesa's vegetation is a patchwork dominated by grasses, pinyon pine and juniper, sagebrush and bitterbrush/cliffrose due to a variety of vegetation treatments in the past. The treatments include chemical treatments to kill trees and shrubs to enhance grass, chaining to mechanically control trees, and fire (both prescribed and wildfire) and fire rehabilitation. Some of the mesa has been left untreated, so the natural overgrowth of pinyon and juniper has occurred.

The mesa has many roads and trails due to the many treatments applied and the resource use, including grazing, firewood cutting, and recreation.

The outcrops Mr. Hodges wishes to work on are in and adjacent to Little Creek, an ephemeral stream or dry wash. Little Creek flows eastward off the mesa into Gould Wash. Gould Wash, also an ephemeral stream, flows northward into the Virgin River. The floodplain of Little Creek has not been mapped, but the topography clearly indicates the channel and surrounding areas are at least occasionally flooded, probably during exceptionally heavy storm events.

Little Creek Mountain is used for several kinds of recreation. Rockhounding and petrified wood collection are well-established on the mesa. Touring the mesa in vehicles and day hiking are also well-known activities due to the vistas visible from the edges of the mesa and the milder climate due to the elevation during the summer months. Recently, mountain biking has become established on the mesa. Many of the bikers use the existing roads, along with a trail system being developed by the BLM and mountain bike groups.

There are many archeological sites on Little Creek due to the agricultural use of the mesa by the Anasazi people. The structural sites constructed by the Anasazi are the reason the Little Creek Mountain ACEC was designated. There is a university field camp established on the mesa to provide a base for the study of the archeological resources.

#### **Critical Elements**



BLM resource specialists have determined that the following critical elements of the human environment are not present in the area addressed in the proposed action or alternative of this EA.

*Farm Lands (prime or unique)* - There are no identified prime or unique farm lands within Washington County

*Environmental Justice* - No disadvantaged population would be affected.

*Threatened, Endangered or Candidate Species* - None in project area as documented by survey in case file.

*Wastes (hazardous or solid)* - None in project area and none would be generated by operation.

*Wetlands/Riparian Zones* - None in project area.

*Wild and Scenic Rivers* - None in project area.

*Wilderness* - None in project area.

The following critical elements are present in the project area, but would not be adversely affected by the proposed action or alternative(s) for the reasons stated below.

*Air Quality* - The nature of the excavation and the small amount of disturbance proposed would not add measurable dust or pollution to the air.

*Areas of Critical Environmental Concern* - The Little Creek Mountain ACEC was designated to protect archeological resources. A survey has been done of the claims, and no archeological resources were found. Therefore, the action would not impact the purpose of the ACEC.

*Cultural Resources* - A survey of the claims was done by the archeologist, and no cultural resources were found in the project area as documented by the survey in the case file.

*Floodplains* - The proposal includes mining stone from outcrops, picking up boulders, and travel within the channel and floodplain. These actions may alter the channel and floodplain, but would not measurably change the flood potential or severity. The stipulations applied to the 404 (stream alteration) permit would mitigate impacts.

*Native American Religious Concerns* - The proposed operation is outside the area of concern for the Shivwits Band of the Piaute Tribe, and no cultural resources were found on the claims.

Map 1 - location of proposed action.

The description of the affected environment for the No Action Alternative would be the same as the description for the proposed action.

impacts would impact a relatively small portion of Little Creek, and would occur intermittently. During periods of non-operation, the mining sites themselves would be visible, but not visually intrusive.

### Mitigation

The following stipulations would be added to the Plan of Operations:

To prevent the introduction of noxious weeds or other invasive, non-native plants into the proposed project area, all equipment and vehicles used will be washed prior to first entering the site. All noxious weed infestations noted by the operator will be reported to the St. George Field Office weed coordinator. No equipment or vehicles will enter an infested area unless precautions to prevent the spread are authorized by the St. George Field Office. After the project is completed, the disturbed sites will be monitored by the BLM for noxious weeds. All noxious weed infestations noted will be reported to the St. George Field Office weed coordinator; however, proper treatment will be operator's responsibility. All chemical treatments must be done by a certified applicator using BLM approved herbicides.

### Residual Impacts

Removal of the rocks and quarrying of the outcrops would change the visual quality of the site to some degree, but neither of the proposed sites is readily visible from the maintained roads.

### Cumulative Impacts

The cumulative impacts of activities in the St. George Field Office have been described and analyzed appropriately in the Dixie Resource Area (St. George Field Office) Proposed Resource Management Plan and Final Environmental Impact Statement (September 1998). This proposed action falls within the range of actions analyzed. Therefore, all resource values have been evaluated for cumulative impacts. It has been determined that cumulative impacts would be negligible as a result of the proposed action or alternative.

### Monitoring

The mine site would be inspected at least annually by the BLM geologist. Other BLM resource specialists including archeologists, range management specialists, recreation specialists, weed specialists, and law enforcement also monitor activities on Little Creek Mountain and would visit the site during the course of their monitoring.

## **No Action Alternative**

### **Direct and Indirect Impacts**

*Invasive, Non-native Species* - By preventing the surface disturbance and potential for introducing seeds via the equipment, the no action alternative would decrease the potential for the introduction of weeds at the site. Therefore the impacts of weeds (loss of native or preferred species, loss of forage production, potentially increased soil erosion, and potentially toxic effects to livestock or wildlife who eat the weeds) would be prevented.

*Salable mineral management (the legality of locating mining claims for decorative stone)*

The no action alternative would prevent the removal of any stone, therefore muting the question of the validity of the claims in this case. However, the No Action Alternative is not in accordance with the 43 CFR 3809 regulations, which govern operations on mining claims.

*Loss of grazing due to destruction of vegetation* - The no action alternative would prevent the surface disturbance related to mining, so no vegetation or grazing would be impacted.

*Recreation* - The no action alternative would prevent using equipment, so no impacts to recreation would occur.

### **Cumulative Impacts**

The cumulative impacts of activities in the St. George Field Office have been described and analyzed appropriately in the Dixie Resource Area (St. George Field Office) Proposed Resource Management Plan and Final Environmental Impact Statement (September 1998). The No Action Alternative falls within the range of actions analyzed. Therefore, all resource values have been evaluated for cumulative impacts. It has been determined that cumulative impacts would be negligible as a result of the No Action Alternative.

## CONSULTATION AND COORDINATION

### List of Preparers

Larry Gore - Lead Preparer, Geologist - SGFO  
Gina Ginouves- NEPA  
James D. Crisp - St. George FO Manager  
Cimarron Chacon - Visual Resources - SGFO  
Geraldyn McEwen - Archeology - SGFO/KFO  
Gardiner Dalley - Archeology - CCFO  
Stephanie Ellingham - Watershed - SGFO  
Bob Douglas - Biologist - SGFO  
Kim Leany - Range, Weeds - SGFO

### Persons, Groups and Agencies Consulted

John Willey - Washington County Planner  
Wayne Hedberg - Utah Division of Oil, Gas, and Mining

### Public Notice and Availability

Notification was posted on the BLM Utah Electronic Notification Bulletin Board on November 18, 1999 that an Environmental Assessment was being written. On January 7, 2000 Mr. Hodges changed his proposal so that no EA was required. Then on March 23, 2000 he re-submitted his Plan of Operations, so work on the EA began again. Notification was posted again on the Bulletin Board on March 15, 2000.

Comments, including names and street addresses of respondents, will be available for public review at the St. George Field Office, 345 East Riverside Dr., St. George, UT during regular business hours ( 8:00 a.m. to 5 p.m.) Monday through Friday, except holidays, and may be published as part of the Environmental Assessment and other related documents. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review and disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

## **APPENDICES**

Appendix 1 - Plan of Operations submitted by Mr. Hodges.

Appendix 2 - Bond Calculation for the proposed operation

Appendix 3 - St. George Field Office Interdisciplinary Team Review Record

## Appendix 1

Plan of Operations submitted by Mr. Hodges



## Appendix 2

### Bond Calculations

# Bond Calculations for Hodges' Plan of Operation UTU-78488

The sites are located on Little Creek Mountain, approximately 35 road miles from St. George, 18 road miles from Hurricane, and 15 road miles from Hildale/Colorado City. Less than 5 miles is native surfaced roads, the rest is paved State or Federal highway.

The proposal includes two mine sites of 10,000 square feet each and less than 4,000 feet of access roads/trails (less than 8 feet wide) to be reclaimed. For approximately 1.2 acres of surface disturbance.

Required reclamation will consist of:

- blending the contours of the waste rock pile(s) into the surrounding contours,
- spreading any soil material salvaged during the operation over the disturbed areas,
- pulling in any road berms and filling any side cuts developed in the roads or trails,
- scarring the roads and trails used to allow for re-vegetation, and
- blocking the trails with large rocks to discourage travel.
- seeding all disturbed areas with an approved mix after the soil material is spread.

Experience indicates the most effective tool for completing this type of work is a tracked excavator (track hoe).

Current cost estimates are:

Track hoe with operator - \$100.00/hour	
Haul track hoe in/out - \$ 4.00/mile	
Estimate about 12 hour of track hoe time	\$ 1,200
70 miles of hauling from/to St. George	\$ 280
<u>reseeding 1.2 acres (seed and labor)</u>	<u>\$ 125</u>
<i>Direct Cost Subtotal</i>	<i>\$ 1,605</i>
BLM reclamation contract preparation (15 %)	\$ 240
<u>BLM Contract Admin (COR and PI) 8 hrs @ \$36.00</u>	<u>\$ 290</u>
<i>Direct Cost and Administration Subtotal</i>	<i>\$2,135</i>
<u>Account Management Fee (Denver) 18 %</u>	<u>\$ 385</u>
<b><i>Total Bond Necessary</i></b>	<b><i>\$ 2,520</i></b>

Appendix 3

St. George Field Office  
Interdisciplinary Team Review Record



## UNITED STATES DEPARTMENT OF THE INTERIOR

### BUREAU OF LAND MANAGEMENT

ST. GEORGE FIELD OFFICE

345 E. Riverside Drive

St. George, Utah 84790

Phone (435)688-3200 · Fax (435)688-3252

In reply refer to:  
(UT-045)

May 15, 2000

Certified Mail 7099 3220 0008 3452 3887 - Return Receipt Requested

Eugene Hodges  
P.O. Box 997  
LaVerkin, UT 84745

Dear Mr. Hodges:

Enclosed is a copy of the signed Decision Record authorizing your proposed operation on Little Creek Mountain. To comply with the mining regulations, there are still several things you must complete prior to beginning operations. These are:

1. Post an acceptable bond with the Bureau of Land Management. Acceptable bonds are cash (to be held by the BLM), cash deposited and maintained in a Federal depository account of the U.S. Treasury, Negotiable securities of the U.S., or a corporate surety bond underwritten by a company approved by the U.S. Treasury Department. The bond must be at least \$ 2,520.00.
2. File the required small mine form with the Utah Division of Oil, Gas, and Mining, and submit the permit application fee.
3. Go before the Washington County Commission, and get a conditional use authorization

Visit our website at <http://www.ut.blm.gov> for information about current Utah BLM environmental documents

for the site. You should contact the Washington County Planner, Mr. John Willey at 634-5701, to get this process started.

If you feel the bond amount is excessive, or the other conditions are inappropriate, you may appeal the decision to the State Director, and ultimately to the Interior Board of Land Appeals, as described in the decision record.

Acceptance of this Plan of Operations will not now, or in the future, serve as a determination of the validity of any mining claim to which it may relate.

If you have any questions, please contact me at this office or at 435/688-3205.

Sincerely,

Larry Gore  
Geologist

enclosure -

EA (UT-045-00-EA-06) - 26 pages